

TIPPECANOE COUNTY LOCAL RULES OF COURT

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LR79-AR 1 (E)-1**County Caseload Plan**

This Rule incorporates by reference the current caseload allocation plan for Tippecanoe County, as approved by the Indiana Supreme Court. The plan is subject to review every two (2) years. As of the date of the Order adopting these Rules, and subject to any modifications which may subsequently be made, the plan reads as follows:

All cases wherein the most serious charge alleged is Murder, a Class A, B, or C felony and those Class D felonies set forth in paragraph 2 below shall be assigned to Tippecanoe Circuit Court, Superior Court of Tippecanoe County, and Superior Court No. 2 of Tippecanoe County, on a random basis according to the following ratio:

Court	Ratio
Tippecanoe Circuit Court	2
Superior Court of Tippecanoe County	4
Superior Court No. 2 of Tippecanoe County	4

For any defendant who has a Class A, B, or C felony case pending or who is serving a Class A, B, or C felony sentence, whether executed or suspended, any new case charging that defendant with a Class A, B or C felony shall be filed in the court having jurisdiction of the oldest such case. Upon learning that such a case has been filed in the wrong court, the prosecutor shall within 14 days move to transfer the case to the proper court.

Class D felony cases assigned to Tippecanoe Circuit Court, Superior Court of Tippecanoe County, and Superior Court No. 2 of Tippecanoe County are as follows:

I.C. 35-42-2-1 (a) (2) (B)	Battery on a Child
I.C. 35-42-4-4 (b) (1) and (2)	Possession of Child Pornography; Child Exploitation
I.C. 35-42-4-5 (a)	Vicarious Sexual Gratification
I.C. 35-42-4-6	Child Solicitation
I.C. 35-42-4-7	Child Seduction
I.C. 35-42-4-9 (b)	Sexual Misconduct with a Minor
I.C. 35-49-3-3	Dissemination of Matter Harmful to Minors
I.C. 35-46-1-4	Neglect of a Dependent
I.C. 35-43-1-1 (d)	Arson
I.C. 35-48-4-4	Dealing in Schedule V Controlled Substance

Where it is alleged that defendants jointly commit a crime or crimes, their cases shall be filed together in the same court. In any such cases where one or more of the defendants has a Class A, B or C felony case pending or is serving a Class A, B, or C felony sentence, whether executed or suspended, all the cases shall be filed in the court having jurisdiction of the oldest such case.

Superior Court No. 3 of Tippecanoe County exercises juvenile jurisdiction and will not receive filings of felony or misdemeanor cases. A case wherein juvenile jurisdiction is waived may be assigned to a court by agreement of the parties. In the absence of such agreement, the case shall be filed in accordance with the Local Rule on Assignments of Criminal Cases.

All Class D felonies, misdemeanors, and infractions alleging a violation of Indiana Code Title 9, Traffic Code, shall be assigned to Superior Court No. 6 of Tippecanoe County.

All Class D felonies, misdemeanor, and infractions alleging violation of Indiana Code Title 35, Article, Controlled Substances, and not set forth in paragraph 2 above, shall be filed in Superior Court No. 4 of Tippecanoe County. Glue Sniffing in violation of Indiana Code 35-46-6-2, and Public Intoxication cases shall be filed in Superior Court No. 4 of Tippecanoe County.

All remaining Class D felonies, misdemeanors, and infraction cases not specifically set forth above shall be filed in Superior Court No. 5 of Tippecanoe County.

A judge, by appropriate order may transfer and reassign to any other court of record in the county, any pending case, subject to acceptance by the receiving court.

A case transferred to Tippecanoe County by reason of change of venue from another county may be assigned to a court by agreement of the parties. In the absence of such an agreement, the case shall be filed in accordance with this Local Rule on Case Assignments.

When the State of Indiana dismisses a case and chooses to re-file that case, the case shall be assigned to the court from which dismissal was taken.

All petitions for civil orders of protection shall be filed initially in Superior Court No. 5 of Tippecanoe County.

LR79-TR 5(E)-2**Filing**

A. Flat filing. All papers presented for filing with the Clerk or Court shall be flat and unfolded.

B. Number of copies. All Orders submitted to the Court shall be in sufficient number so that the original and one copy may be retained by the clerk and a copy mailed to each party.

C. Proposed orders required. The moving party, unless the Court directs otherwise, shall furnish the Court with proposed Orders in the following matters: motions for enlargement of time, for continuance, for default or default judgment, to compel discovery, for restraining order or injunction, for immediate possession of real estate or personal property, for appointment of receiver, for findings of fact and conclusions of law, for dismissal of an action, for judgment in a collection matter or mortgage or lien foreclosure, and in such other matters as the Court directs.

LR79-TR 5(E)-3**Motion Hour**

If the Court conducts motion hour, the same shall be for the consideration of routine matters, procedural motions, setting dates for trials, pre-trial conferences, and hearings and for other matters which can ordinarily be heard without evidence or argument. Attorneys shall notify opposing counsel in advance before approaching the Judge at motion hour for any matter requiring action to be taken by the Court.

LR79-TR 6(B)-4**Extensions of Time**

(1) Initial Extension. In a civil action where a party desires an initial 30 – day extension of time to file a responsive pleading or to respond to a discovery request, the party shall contact opposing counsel before the due date and solicit agreement to the extension. If there is no objection or opposing counsel cannot with due diligence be reached, the party seeking the extension shall file a notice with the Court reciting the lack of objection to the extension or that opposing counsel could not with due diligence be reached. No further filings with the Court nor action by the Court shall be required for the extension. If opposing counsel objects to the request for extension, the party seeking the extension shall file a formal motion for such extension and shall recite in the motion the efforts to obtain agreement.

(2) Other extensions. Any other request for an extension of time, unless made in open Court or at a conference, shall be made by written motion. If opposing counsel objects to the request for extension, the party seeking the extension shall recite in the motion the effort to obtain agreement; or recite that there is no objection.

(3) Due dates. Any notice or motion filed pursuant to this rule shall state the date such response was initially due and the date on which the response will be due after the extension.

LR79-TR73-5

Telephone Conferencing

A. Purpose. To expedite the Court's business, the Court encourages telephone conferencing for the hearing of motions, for pre-trial and status conferences, and for other matters which may reasonably be conducted by telephone.

B. Hearing on motions or status conferences. Within five (5) days after receipt of notice of hearing on a motion, any party or attorney may request that the Court conduct the hearing by telephone conference with the Court. If the Court sets the hearing for telephone conference, the party requesting the telephone conference shall arrange and place the call, unless otherwise ordered by the Court.

LR79-TR12-6

Motions

A. Applicability. This rule shall apply to motions under Trial Rule 12, contested motions to continue hearings or trials, discovery motions, and any other contested motions.

B. Briefs and Memoranda. Unless the procedure for a motion is governed otherwise by the Indiana Rules of Trial Procedure, an adverse party shall have fifteen (15) days after service of a motion in which to file a response, and the moving party shall have seven (7) days in which to file a reply. The court may in its discretion shorten or lengthen the time for a response or a reply. Failure to file a response or reply within the prescribed time shall subject such motions to summary ruling. Any party may request the court hold a hearing on a motion.

C. Notice of hearing. If the movant procures a date for hearing on a motion, the movant shall promptly give notice to all adverse parties of the date and time of such scheduled hearing.

LR79-TR-53.5-7

Continuances

Before requesting a continuance of a matter, the moving party shall confer with the other parties to determine any objections and dates for rescheduling when all parties are available. Such objections and alternative dates shall be reported in the motion for continuance.

LR79-TR-3.1-8**Withdrawal of Appearance**

Motions to withdraw an appearance shall be in writing with an attached notice to the client of intention to withdraw. The notice to the client of the intention to withdraw shall include an explanation to the client of (i) the present status of the case; (ii) the dates of scheduled hearings or other pending matters in the case; and (iii) the potential consequences to the client's case resulting from failure of the client to act promptly or to secure new counsel.

LR79-TR 79-9**Withdrawal of Original Records**

Original pleadings, papers, exhibits or other official materials in the custody of the Clerk, reporter or other officer of the Court shall not be withdrawn from the officer having custody thereof except upon (i) the Order of the Judge of the Court where the record is held, and (ii) upon leaving a proper receipt with the Clerk, reporter or officer.

LR79-CR 2.2-10 Case Reassignment and Special Judges in Criminal Cases

In the event a change of judge is granted pursuant to Indiana Criminal Rule 12 or it becomes necessary to assign another judge in any felony or misdemeanor proceeding, the case shall be returned to the Clerk of court for random selection of another court from among all the courts in Tippecanoe County. On selection, the case shall be reassigned by the Clerk to the selected court.

In the event no judge is available for assignment or reassignment of a felony or a misdemeanor case, such case shall be certified to the Indiana Supreme Court for the appointment of a special judge. In the event the judge presiding in a felony or misdemeanor case concludes that the unique circumstances presented in such proceeding require appointment by the Indiana Supreme Court of a special judge, the presiding judge may request the Indiana Supreme Court for such appointment.

LR79-TR79-11**Special Judge Selection in Civil Cases**

A quorum of judges for the 4th Administrative District met on August 22, 1995 and, by consensus, adopted the following Local Rule:

Juvenile Cases: Each judge of the 4th District who routinely presides over juvenile cases shall maintain a list of each other such judge and, when required pursuant to Trial Rule 79 (H) to assign a special judge, shall assign a judge from said list on a rotating basis.

All Other Civil Cases:

a) **Tippecanoe County** The five judges of Tippecanoe County (not having juvenile case load) shall maintain a computer generated random selection system among said five judges, to be managed through the County Clerk's Office and the County Data Processing Department. Whenever a special judge needs to be assigned pursuant to Trial Rule 79 (H), the judge shall direct that a judge be selected by said random process.

b) **All other counties** of the 4th Administrative District shall maintain a list of each judge from hi/her county and the contiguous 4th District counties (excluding Tippecanoe County). When appointment of a special judge is necessary pursuant to Trial Rule 79 (H), the judge shall appoint a judge from his/her list on a rotating basis.

If the judge selected by this Rule becomes disqualified or no judge is eligible to serve as special judge, the judge having jurisdiction of the cause shall notify the Indiana Supreme Court of the circumstances relevant thereto and request that a special judge be appointed by the Supreme Court.

LR-79-AR00-12

Tippecanoe County Court Services Program

Program 575

Whole Program/multiple charges or felony	\$400
Whole Program – 1 st time	\$300
Classes only	\$150
Evaluation only	\$100
Case management only	\$100
Transfer fee	\$100
Reschedule	\$25
2 nd case number before 1 st case closed	\$50

Program 576

CAT Program	\$200
Urine Drug Screen	\$35
Community Service	\$50
Reschedule	\$25

Effective October 18, 2007

LR79-AR15-13

Court Reporter Services

Section One. Definitions. The following definitions shall apply under this local rule:

- (1) A *Court Reporter* is a person who is specifically designated by a court to perform the official court reporting services for the court including preparing a transcript of the record.
- (2) Equipment means all physical items owned by the court or other governmental entity and used by a court reporter in performing court reporting services. Equipment shall include, but not limited to, telephones, computer hardware, software programs, disks, tapes, and any other device used for recording and storing, and transcribing electronic data.
- (3) Work space means that portion of the court's facilities dedicated to each court reporter, including but not limited to actual space in the courtroom and any designated office space.

- (4) Page means the page unit of transcript which results when a recording is transcribed in the form required by Indiana Rule of Appellate Procedure 7.2, and includes the index and table of contents pages.
- (5) Recording means the electronic, mechanical, stenographic, digital, or other recording made as required by Indiana Rule of Trial Procedure 74.
- (6) Regular hours worked means those hours which the court is regularly scheduled to work during any given work week. Depending on the particular court, these hours may vary from court to court within the county but remain the same for each work week.
- (7) *Gap hours worked* means those hours worked that are in excess of the regular hours worked but hours not in excess of forty (40) hours per work week.
- (8) Overtime hours worked means those hours worked in excess of forty (40) hours per work
- (9) *Workweek* means a seven (7) consecutive day week that consistently begins and ends on the same days throughout the year; i.e. Sunday through Saturday, Wednesday through Tuesday, Friday through Thursday.
- (10) Court means the particular court for which the court reporter performs services. Court may also mean all of the courts in Tippecanoe County.
- (11) County indigent transcript means a transcript that is paid for from county funds and is for the use on behalf of a litigant who has been declared indigent by a court.
- (12) State indigent transcript means a transcript that is paid for from state funds and is for the use on behalf of a litigant who has been declared indigent by a court.
- (13) Private transcript means a transcript, including but not limited to a deposition transcript that is paid for by a private party.

Section Two. Salaries and Per Page Fees.

- (1) Court Reporters shall be paid an annual salary for time spent working under the control, direction and direct supervision of their supervising court during any regular work hours, gap hours or overtime hours. The supervising court shall enter into a written agreement with the court reporters which outlines the manner in which the court reporter is to be

compensated for gap and overtime hours; i.e. monetary compensation or compensatory time off regular work hours.

- (2) Court reporters may contract to prepare transcripts outside the hours in which their attendance is required and outside hours they perform other work pursuant to their employment relationship.
 - (a) The maximum per page fee a court reporter may charge for the preparation of a county indigent transcript shall be \$4.00; the court reporter shall submit a claim to the ancillary court reporter, who shall submit the claim to the county for the preparation of any county indigent transcripts. The ancillary court department shall have the responsibility of maintaining the budget for county indigent transcripts.
- (3) The maximum per page fee a court reporter may charge for the preparation of a state indigent transcript shall be \$4.00. The court reporter shall submit the invoice for state indigent transcripts directly to the state.
- (4) The maximum per page fee a court reporter may charge for the preparation of a private transcript shall be \$4.00. The court reporter shall submit the invoice for private transcripts directly to the attorney requesting the transcription. A deposit in the amount of the estimated work shall be required from the attorney making a private transcript request.
- (5) The per page fee for expedited transcripts shall be \$6.50 within 24 hours notice and \$5.00 within three (3) days notice.
- (6) An additional labor charge may be assessed in the amount of the court reporter's hourly rate based upon the court reporter's annual court compensation or \$15.00 per hour, whichever is greater, for the time spent binding the transcript and the exhibit binders. An additional charge shall be assessed for the office supplies required and utilized for the binding and the electronic transmission of the transcript, pursuant to Indiana Rules of Appellate Procedure 28 and 29, pursuant to a Schedule of Transcript Supplies published annually by the Judges of the County.
- (7) Each court reporter shall report, at least on an annual basis, all transcript fees received for the preparation of county indigent, state indigent or private transcripts to the Indiana Supreme Court Division of State Court Administration. The reporting shall be made on forms prescribed by the Division of State Court Administration.

Section Three. Private Practice.

- (1) If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript, and the court reporter desires to utilize the court's equipment, work space and supplies, and the court agrees to the use of the court equipment for such purpose, the court and the court reporter shall enter into a written agreement which must, at a minimum, designate the following:
 - (a) The reasonable market rate for the use of equipment, work space and supplies;
 - (b) The method by which records are to be kept for the use of equipment, work space and supplies; and
 - (c) The method by which the court reporter is to reimburse the court for the use of the equipment, work space and supplies.
- (2) If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript, all such private practice work shall be conducted outside of regular working hours.

LR79-AR15-14

Assigned Counsel and Guardian Ad Litem Fees

1. Assigned Counsel Fees

- a. Assigned counsel in pauper cases shall be paid by the court at the rate of \$75.00 per hour, unless state law requires a different rate of payment.
- b. Assigned counsel shall submit verified, itemized claims using units of time no larger than one-quarter hour, detailing the work for which they seek payment.

2. Guardian Ad Litem Fees

- a. The order appointing a guardian ad litem shall specify the guardian's hourly fee, the amount of the retainer, and the allocation of the guardian's fee between the parties.
- b. Guardians ad litem may agree with the parties to a case upon the fee they will charge.
- c. If there is a written agreement signed by the parties, or a court order entered at the time of appointment establishing the guardian's fees, the court will approve an agreed fee no greater than \$200.00 per hour.
- d. A fee established by court order entered at the time of appointment or by written agreement may be enforced by judgment and supplemental proceedings.
- e. In the absence of a written agreement or court order entered at the time of appointment, the court shall enforce payment at the assigned counsel rate established by section 1 (a) of this order.

f. If the guardian is unable to collect his or her fee from the parties, the guardian may apply for payment to the court. The court shall then conduct a hearing to determine if the delinquent party is indigent. If the court finds that the delinquent party is indigent, the court shall order payment of the guardian's fee from the Family Relations Fund. The payment from the Family Relations Fund shall be calculated by multiplying the total hours billed by the guardian by the assigned counsel rate and subtracting the total amount previously received by the guardian.

LR79-JR4-15 Local Rule Regarding Jury Rules

Pursuant to the Order of the Supreme Court of Indiana, adopted December 31, 2001, and amended July 19, 2002, amending the Indiana Jury Rules, and in the exercise of its inherent authority to supervise the administration of all courts of this state, this Local Rule is adopted and promulgated.

Jury Rule 4, Notice of Selection of Jury Pool and Summons for Jury Service, mandates that the Judges of the Courts of Record of Tippecanoe County select by Local Rule, one of the two procedures outlined therein for summoning jurors.

The Judges of the Courts of Record of Tippecanoe County, being duly advised, hereby promulgate this Local Rule adopting the two-tier notice and summons system described in Jury Rule 4. The jury qualification form and notice will be the first tier and summoning the prospective juror at least one week before service will be the second tier.

The Bailiff of each court of record, as well as the Clerk of Tippecanoe County, is hereby designated as a Jury Administrator.

TIPPECANOE CIRCUIT COURT PROBATE RULES

LR79-PR-1

Scope and Title

- 1.1 These Rules shall apply in the Tippecanoe Circuit Court (hereafter referenced as “the Court”) and shall be applicable as guidelines in all probate matters.
- 1.2 These Rules are intended to be interpreted consistent with State statutes and any applicable regulations and Indiana Common Law as now existing and as may hereafter develop.
- 1.3 These Rules shall be known as the “Tippecanoe Circuit Court Probate Rules” and are occasionally referenced herein as “these rules”

LR79-PR-2

Access to Court and Representation

- 2.1 The Court maintains regular business hours of 8:00 a.m. – Noon and 1:00 p.m.-4:30 p.m., Monday through Friday, and is open to the public. Motion Hour is conducted each day from 8:30 -9::00 a.m., unless pre-empted due to a trial. Motion Hour is the time set aside by the Court to schedule contested hearings and consider routine motions. Counsel is encouraged to contact opposing counsel to arrange a mutually agreeable date and time to meet at Motion Hour rather than ask the court to order counsel to appear. Matters relevant to these rules (such as estates, guardianships, and adoptions) are complicated proceedings normally requiring the assistance of an attorney. Therefore, these Rules are adopted in the belief that an experienced attorney will represent parties before the Court. The Court and its employees can not give legal advice or refer unrepresented persons to attorneys.
- 2.2 All probate filings shall be typewritten or word processed and shall be consistent with these rules. Any deviation from these rules shall be brought to the Court’s attention when any document is submitted. When documents are filed by mail, or left with the Court for filing, a self-addressed, stamped envelope shall be included for return of documents unless other arrangements for document return are made.
- 2.3 Routine pleadings such as Inventories, Inheritance Tax Schedules, and Final Reports may be filed with the Probate Commissioner for transmittal to the Court. Pro-forma hearings may also be set with the Commissioner.

LR79-PR-3

Notice

- 3.1 Whenever notice by publication or written notice by U.S. Mail is required to be given, the attorney shall prepare such notice and mailing envelopes (including postage) and shall ensure that such notice is properly published or served. In all respects, the notice shall comply with all statutory requirements. It shall be the attorney's responsibility to ascertain and provide adequate proof that notice was properly served prior to bringing a matter to Court or that notice will be properly served as part of any proceeding.
- 3.2 Copies of petitions shall be sent to interested parties along with all notices of hearings.
- 3.3 Notice of the opening of an estate shall be sent by First Class United States Mail to all reasonably ascertainable creditors; however, the use of certified mail, return receipt requested, to serve such notice is recommended.
- 3.4 Notice of the hearing to be held on a Petition to determine if an Estate is insolvent shall be served on all interested parties, including the local representative of the Inheritance Tax Division of the Indiana Department of Revenue.

LR79-PR-4

Bonds

- 4.1 Bonds are required by statute in some circumstances. If discretionary, the Court intends to exercise that discretion for the protection of creditors, heirs, legatees or devisees, or other interested individuals or entities.
- 4.2 Existing law requiring bond includes circumstances where the Will requires the execution and filing of a bond or the Court finds that a bond is necessary (see I.C. 29-1-11-1).
- 4.3 A non-resident individual or corporate fiduciary serving jointly with a resident personal representative or a non-resident individual qualifying to serve as a personal representative or a personal representative who becomes a non-resident of Indiana (see I.C. 29-1-10-1) requires that a bond be filed.
- 4.4 If the filing or amount of a bond is discretionary with the Court, the Court will consider factors such as provisions of decedent's will and any consent filed by a creditor or heir, or other interested party regarding the amount or conditions of bond.

LR79-PR-5

Inventory

- 5.1 In supervised and unsupervised estates the personal representative shall within two months after the appointment of a personal representative furnish a copy of an Inventory complying with the requirements of I.C. 29-1-7.5-3.2 or I.C. 29-1-12-1 et. seq. to interested persons who request it unless the original of the Inventory or any supplement or amendment to it is filed with the court.

LR79-PR-6

Confidentiality

- 6.1 Most probate actions are matters of public record and the files thereof are open to review by the general public, subject to excluded and confidential information such as Indiana Tax Returns and reports thereon. Unless required by law or dictated by circumstances of the case, filings with the court need not include dates of birth, social security numbers, or other information which is not necessary for probate administration.

LR79-PR-7

Time Guidelines

- 7.1 Orderly administration of estates requires at a minimum compliance with notice requirements, such as notice to creditors and preparing an inventory and timely preparation of an inheritance tax return to entitle the estate to a discount for payment of inheritance tax within nine months of a decedent's death. Unless there is unavoidable delay in estate administration related to sale or making distribution of assets like real estate or a unique asset owned by a decedent or tax related matters such as awaiting an inheritance tax or estate tax closing letter, most estates should be concluded within one year.

- 7.2 Closing Estates:

7.21 Unsupervised Administration: Unless otherwise ordered by Court in a particular proceeding, closing statements complying with requirements of I.C. 29-1-7.5-4 are sufficient to result in closing an estate. Any objections thereto will be scheduled for hearing. No orders approving closing statements will routinely be provided.

7.22 Supervised Estates: As part of the closing process, the Court will accept Affidavits in Lieu of Vouchers.

LR79-PR-8

Guardianships

- 8.1 In guardianship matters seeking to declare an adult incapacitated for any reason, the incapacitated person shall be present at the hearing or sufficient evidence shall be presented showing that notice of the hearing was given and that the incapacitated person is unable to appear.
- 8.2 In guardianship matters seeking to declare an adult incapacitated for any reason, a report or similar statement or document from the doctor treating the alleged incapacitated person, or such additional evidence as the Court shall require, shall be presented to the Court at the time the petition is filed or on the hearing date. No determination will be made without a supporting medical report or other evidence clearly demonstrating the reasons supporting the need for a guardianship.

- 8.3 An inventory of property within a guardian's control shall be filed within ninety (90) days after the guardian's appointment or within thirty (30) days of the appointment of a temporary guardian. A verified account of the guardian's administration shall be filed as required by statute. In addition to the information required by law, the Court requires changes in the protected person's physical or mental condition, place of residence, and the financial status of the guardianship estate to be included in any account of administration. The current report shall also contain information indicating that the living arrangements for the incapacitated person are appropriate.
- 8.4 In every petition for the appointment of a guardian of the person of a minor child, the following information shall be given:
- 8.4.1 The child's present address.
- 8.4.2 The places where the child has lived within the past two years and the names and present addresses of persons with whom the child has lived during that period.
- 8.4.3 Whether, to Petitioner's knowledge, any other litigation is pending concerning the custody of the child in this or any other state.
- 8.4.4 Whether, to Petitioner's knowledge, any person not a party to the guardianship proceeding has physical custody of the child or claims to have custody or visitation rights with respect to the child.
- 8.5 Nothing herein shall be deemed as amending, superseding or altering the Probate Rules and Regulations promulgated by the Veteran's Administration of the United States of America, and every fiduciary and attorney shall comply with same if applicable.
- 8.6 Other than for routine matters, unless permitted by law, the Guardian shall obtain Court approval prior to taking any action on any financial matter pertaining to carrying out the Guardian's duties and responsibilities for the protected person.

LR79-PR-9

Principles Applicable to Fee Determinations

- 9.1 Attorney fees. Although fee guidelines have been promulgated by the Court in probate matters, those guidelines do not assure that all fees allowed by the Court will adhere to them and other factors may be considered by the Court in making any final determination which may be required. The Court may consider any of the following:
- 9.1.1 The skill required to perform services properly in probate matters; the attorney's expertise in probate matters; the time and labor required; the novelty, complexity, or difficulty of the questions involved; and a determination as to how much of the attorney's time was devoted to legal matters and how much of it was devoted to ministerial functions.

- 9.1.2 The nature and extent of the responsibilities assumed by the attorney and the results obtained; the identity of the personal representative; the character of the probate and non-probate transferred assets; and whether real estate or other assets are located outside of the State of Indiana.
 - 9.1.3 The sufficiency of assets properly available to pay for legal services, and whether the attorney's duties are expanded by the existence of non-probate assets because of their inclusion for tax purposes, either federal or state.
 - 9.1.4 The timeliness with which the necessary services are performed consistent with statutory requirements; whether the attorney was engaged in a timely fashion or was required to perform services close to deadlines through no fault of such attorney; the Court's rules of procedure; and the Rules of Professional Conduct applicable thereto.

In considering all of these factors, all attorneys are urged to discuss their fee and that of the personal representative at the time they are retained in all probate matters. Further, the parties are urged to enter into a written engagement agreement which documents their understandings in this regard.
- 9.2 Administration-There are two methods by which fees are typically determined. One is on an hourly basis based upon the amount of time spent by the attorney in handling the matter. The other is based upon a percentage of the size of the gross estate.
- 9.2.1 Hourly Method: The amount of an hourly fee can vary considerably. Among the factors taken into consideration in arriving at an hourly rate are the considerations listed in the paragraphs of 9.1 above. Additional considerations include the nature and length of the professional relationship between the attorney and the client as well as the experience, reputation and ability of the attorney performing the services.
 - 9.2.2 Percentage Method: In this method the fees are computed based upon the size of the gross estate. The following are typically normal services : Opening of the Estate; qualifying the Personal Representative; preparing the Inventory; paying claims; collecting assets; preparing and filing the Indiana Inheritance Tax Return IH-6; obtaining a Court Order IH-9 thereon, and paying Inheritance taxes; preparing and filing the Final Report or Closing Statement; obtaining an Order approving same; distributing assets as required; obtaining discharge of the Personal Representative; and preparing and serving all notices on interested parties and readily ascertainable creditors throughout the proceedings. Fees herein shall not include services for preparation or filing of federal or state income tax returns 1040, IT-40, 1041, IT-41, federal form 709, or forms relating to employment of third persons by the decedent or estate. This list shall not be considered to be exclusive. Percentage fees shall be computed on the Gross

Estate as defined for purposes of the Indiana Inheritance Tax. The maximum fee for these normal services is computed as follows:

Up to \$ 100,000, not to exceed	6%
Next \$ 200,000, not to exceed.....	4%
Next \$ 700,000, not to exceed.....	3%
Excess over \$ 1,000,000, not to exceed.....	1%

In addition to the normal services described above, many times additional services are necessary, for which an additional fee is appropriate. Such additional services and the maximum related fees may include for example the following:

A. Sale of Real Estate

Minimum fee of \$500.00 except that there shall be a fee no greater than 2½% (.025) of the gross sales price of the real estate where no real estate professional receives a commission

B. Federal Estate Tax Return Form 706

Basic Fee-the greater of \$3,000.00 or .15% (.0015) of the total gross estate as shown on Form 706, Part 2, Line 1, Page 1
Additional fee for non-probate assets....1.5% (.015)

9.3 Miscellaneous-Fees shall be hourly for the following services: Spreading Will of Record, small estate settlement procedure, defending a will, construing a will, contesting claims, adjusting tax matters, any contested hearing, petition for instructions, heirship determination, and fees to continue a business or to generate additional income for the estate.

9.4 Wrongful Death Administration

Fees not to exceed:

Settlement prior to filing.....	25%
Settlement after filing and prior to Trial.....	33 1/3%
Trial.....	40%
Appeal, or extra work.....	50%

The above fee schedule may be increased under circumstances where the litigation is complex and the potential for recovery is difficult, provided one of the following has occurred:

A. All of the beneficiaries who will participate in the wrongful death recovery, or their legal representative(s), sign a written contingent fee contract providing for a fee greater than above.

B. The Court, having probate jurisdiction of the estate, approves a contingent fee contract providing for a fee greater than the above.

9.5 General-Except as otherwise specified above, fees in other proceedings involving guardianship and docketed trusts and related matters, will be computed on a hourly basis. Hourly fee services shall be rendered with specificity and may include: sale of personal property, sale of real property, partial distributions, contesting claims, adjusting tax matters, any contested hearing, petition for instructions, heirship determination, and fees to continue a business or to generate additional income for the trust or guardianship.

9.6 Personal Representative Fees

9.6.1 Professional: Their applicable reasonable rate to be reviewed in light of all prevailing circumstances.

9.6.2 Non-Professional: An amount not in excess of one-half (1/2) of the Attorney's fee, computed via the method being employed by the attorney handling the estate. In determining the amount of the fee, consideration shall be given to the amount of work performed by the personal representative as compared to the attorney as well as the nature of the work performed by the personal representative. For example, the hourly rate to be charged for lawn care or house cleaning should be comparable to typical laborer charges as compared to the rate for negotiating a sale of property or the transfer of securities. Further, although some consideration should be given to the compensation ordinarily earned by a personal representative in their regular employment, the fact that they miss some work in order to perform their duties as personal representative does not automatically justify them to be compensated for such at their normal pay level.

FAMILY COURT PROJECT RULES

LR79-FL-101 Family Court Project Rules

Pursuant to The Indiana Supreme Court's Order Approving and Extending Family Court Project Rules issued on February 12, 2010, the Tippecanoe Circuit and Superior Courts hereby adopt the Indiana Supreme Court's Family Court Project Rules, restated herein, as a whole.

LR79-FL-102 Definitions

Family Court. "Family Court" is the court or courts before which cases involving a family or household are linked together for purposes of case coordination. The individual cases maintain their separate integrity and separate docket numbers, but may be given a common family court designation. The individual cases may all be transferred to one judge, or may remain in the separate courts in which they were originally filed.

Family Court Proceeding. A "Family Court Proceeding" is comprised of the individual cases of the family or household which have been designated to Family Court.

LR79-FL-103 Exercise of Jurisdiction

The Family Court may exercise jurisdiction over any case involving the family at the same time it exercises jurisdiction over a juvenile case (Child In Need of Services, Delinquency, Status, and Paternity) involving the family.

LR79-FL-104 Concurrent Hearings

The Family Court may, in the court's discretion, set hearings on related cases to be heard concurrently, take evidence on the related cases at these hearings, and rule on the admissibility of evidence for each cause separately as needed to adequately preserve the record for appeal. This rule applies only when the cases are pending before the same judicial officer.

LR79-FL-105 Designation of Family Court and Change of Judge for Cause

Once notice is sent to the parties that a case has been selected for Family Court, no motion for change of venue from the judge may be granted except to the extent permitted by Indiana Trial Rule 76.

Within ten (10) days after notice is sent that a case has been selected for Family Court, a party may object for cause to the Family Court designation.

A motion for change of venue from the judge in any matters arising in the Family Court proceeding or any future cases joined in the Family Court Proceeding after the initial selection of cases, shall be granted only for cause.

If a special judge is appointed, all current and future cases in the Family Court Proceeding may be assigned to the special judge.

LR79-FL-106 Notice of Case Assignment

Within a reasonable time after a case is assigned to Family Court, the court shall provide to all parties in the Family Court proceeding a list of all cases that have been assigned to that Family Court proceeding.

LR79-FL-107 Judicial Notice

Any Court having jurisdiction over a case assigned to Family Court may take judicial notice of any relevant orders or Chronological Case Summary (CCS) entry issued by any Indiana Circuit, Superior, County, or Probate Court.

If a Court takes judicial notice of:

- a. a court order, the court shall provide a copy of that court order; or
- b. a CCS or CCS entry(s), the court shall provide a copy of the entire CCS.

The court shall provide copies of the order or CCS to the parties to the case at or before the time judicial notice is taken.

LR79-FL-108 Access to Records

Parties to a Family Court proceeding shall have access to all cases within the Family Court proceeding, with the exception of confidential cases or records to which they are not a party. Parties may seek access to the confidential cases or records in another case within the Family Court proceeding in which they are not a party, by written petition based on relevancy and need. Confidential records shall retain their confidential status and the Family Court shall direct that confidential records not be included in the public record of the proceedings.